

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

KAMAL KARNA ROY,

Plaintiff,

No. 8:08-CV-1075
(GLS/DRH)

v.

USA,

Defendant.

APPEARANCES:

KAMAL KARNA ROY
Plaintiff Pro Se
Post Office Box 1173
14 Kiwassa Road
Apt. 5G
Saranac Lake, New York 12983

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

REPORT-RECOMMENDATION and ORDER

Plaintiff pro se Kamal Karna Roy ("Roy") commenced this action on October 9, 2008 under 42 U.S.C. § 1981 alleging violations of his civil rights. Docket No. 1. The complaint was incomprehensible. Id. In an order filed October 17, 2008, this Court directed Roy to file an amended complaint that fully complies with Fed. R. Civ. P. 8 and 10. Docket No. 3. On November 5, 2008, Roy filed an amended complaint that remained similarly incomprehensible. Docket No. 4. The Court then issued an order on November 12, 2008 directing Roy to appear before the undersigned in person on December 4, 2008 to review with Roy personally the defects in his complaints and the requirements for filing a sufficient complaint. Docket No. 5. The intent of the order was to facilitate Roy's efforts to file a facially sufficient complaint. Roy neither appeared on that date nor contacted the Court with an explanation for his

nonappearance. Accordingly, since this action cannot proceed in the absence of Roy's submission of a sufficient complaint, it is hereby

RECOMMENDED that Roy's complaint be **DISMISSED** in its entirety without prejudice pursuant to Fed. R. Civ. P. 16(f)(1)(C) and 37(b)(2)(A)(v) for Roy's failure to comply with the Court's October 17 and November 12, 2009 orders; and it is hereby


ORDERED that the Clerk serve Roy with a copy of this order by regular mail.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have ten days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court.

FAILURE TO OBJECT TO THIS REPORT WITHIN TEN DAYS WILL PRECLUDE

APPELLATE REVIEW. Roldan v. Racette, 984 F.2d 85 (2d Cir. 1993) (citing Small v. Secretary of HHS, 892 F.2d 15 (2d Cir. 1989)); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e).

Dated: March 4, 2009
Albany, New York



David R. Homer
U.S. Magistrate Judge